IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 287 (SS) OF 2006

1. Dharam Pal Singh, S/o Shri Shyam Lal,
   Naib Tehsildar, Mussoorie, District – Dehradun.
2. Jiwanand, S/o late Shri Bhola Dutt Biljuwan,
   Niab Tehsildar, Van Prabhag, Kalsi, District Dehradun.
3. Rajendra Agarwal, S/o late Shri Harmukh Rai,
   Niab Tehsildar, Chackrotta, District Dehradun.

.....Petitioners.

Versus

1. Distt. Magistrate, Dehradun.
2. Commissioner, Garhwal Mandal, Pauri.
3. Chief Revenue Commissioner, Dehradun.
4. State of Uttaranchal, through its Revenue Secretary.

.....Respondents.

Sri M.S. Chauhan, Advocate for the petitioner.
Sri Rakesh Thapliyal, Advocate for the respondents.
Learned Standing Counsel for the respondents.

Dated : 07.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order-dated 03.12.2005 passed by the respondent no. 4 in pursuance of the order No. 368/9-8 (2004-2005) dated 26.11.2005, which was passed by respondent no. 3 (Annexure-6 to the writ petition). The petitioners have further prayed for a writ of mandamus directing the respondents to regularize the ad-hoc promotion of the petitioners on the post of Naib Tehsildare on which they are working on the basis of Seniority-cum-merit in accordance with the recommendation of respondent no.4 till the regular selection is made on the aforesaid post by way of departmental

promotion and to pay the petitioners monthly salary on the aforesaid post.

2. It has been brought to the notice that earlier to the aforesaid Writ Petition, Writ petition NO. 1828 (ss) of 2005 was filed by the petitioner Sri Dharam Pal Singh and others for a writ of mandamus directing the respondents to regularize the ad hoc promotion of the petitioners on the post of Naib Tehsildar on which they were working on the basis of seniority-cum-merit.

3. In the said writ petition, a direction has been made directing the respondents to decide the representation of the petitioners by a speaking order. Nothing has been brought to the notice of this Court whether the representation filed by the petitioners has been decided or not. However, the petitioners have submitted that instead of deciding their representations, they have already been reverted on the post of Collection Amin.

4. The grievance of the petitioners is that they are also entitled for promotion under Promotional Quota as prescribed under U.P. Subordinate Revenue Executive Naib Tehsildar Rules, 1944. Rule 5 of the said Rule, provides the source of recruitment, where the Collection Amin has been put in category IV.

5. The petitioner, therefore, have prayed that under the Source of Recruitment, the petitioner are also entitled to be considered for promotion amongst the collection amins and they fulfill all the qualifications. Since the order has already been passed for considering the promotion and the representation has been made by the petitioners in this regard, respondents no. 2 and 3, therefore, are directed to dispose of the representation of the petitioners in accordance with law.

6. However, if the petitioners are entitled under the zone of consideration under the aforesaid Rule, the petitioners shall also be considered for the same.

7. It has been brought to the notice of the Court that there is also a roster of reservation on promotion, the respondents while disposing of the representation of the petitioners shall also take into consideration, the roster of reservation as per Government Order dated 16th August, 2001. The order of reversion dated 03.12.2005 shall not be given effect to. The petitioner shall continue meanwhile.

8. In view of the above, the writ petition is disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

07.03.2006
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